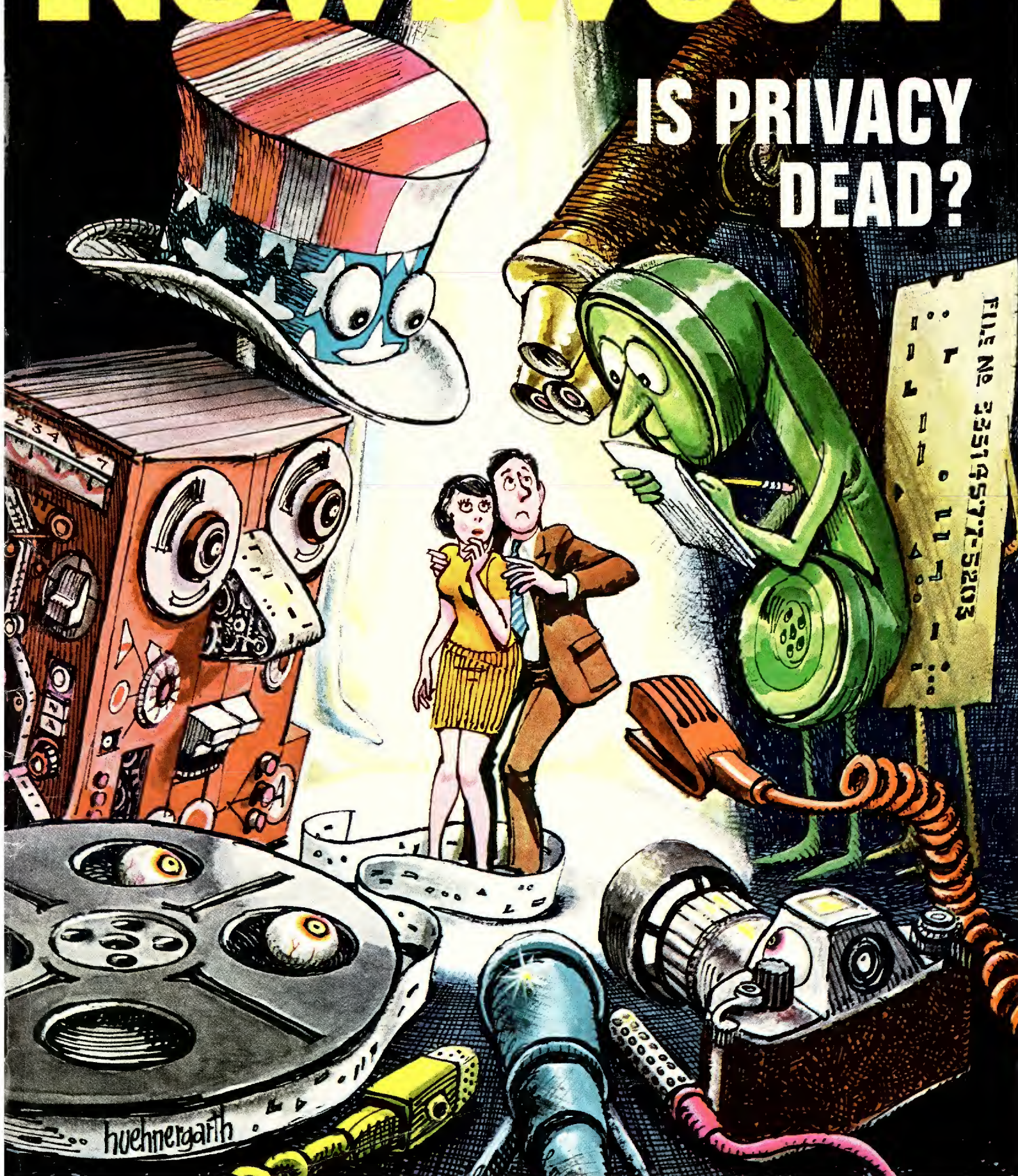
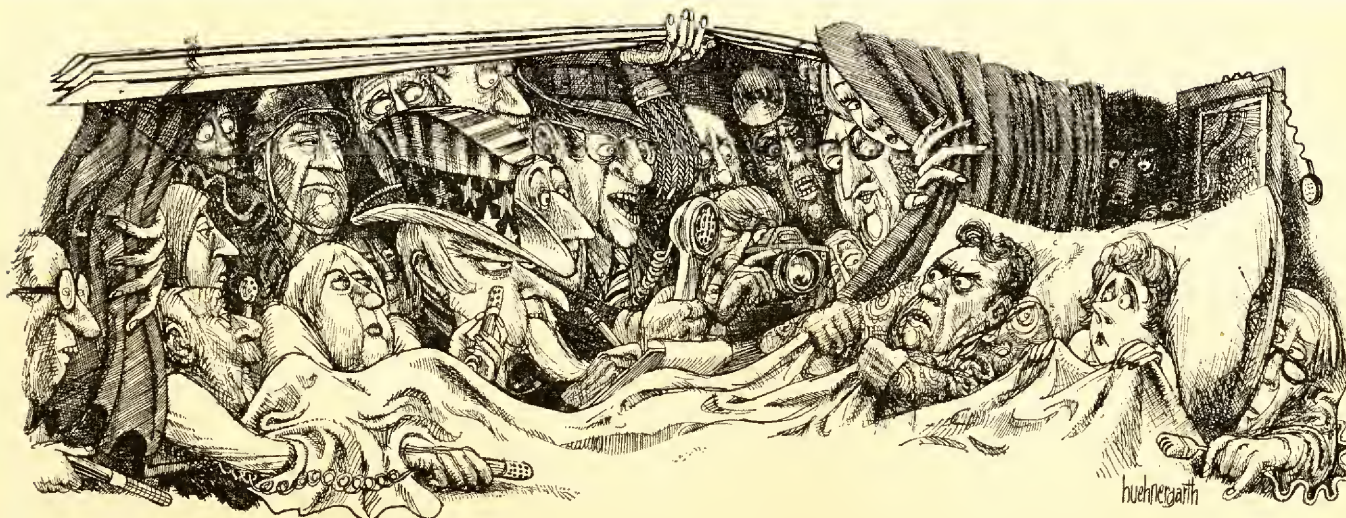


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Newsweek

IS PRIVACY DEAD?





Drawings by John Huehnergath

THE ASSAULT ON PRIVACY

Snoops, Bugs, Wiretaps, Dossiers, Data Banks—and Specters of 1984

At the age of 54, Sigmund Arywitz was a healthy American success story. He was making \$30,000 a year as executive secretary and treasurer of the Los Angeles County Federation of Labor, AFL-CIO, his family was sound, his reputation high on all counts, and he had just finished eight prestigious years in Sacramento as state labor commissioner under Gov. Edmund G. (Pat) Brown. But something was awry. In the space of one year, five Los Angeles department stores refused Sig Arywitz charge accounts, and a major car-leasing company turned him down for credit—even though he had a walletful of oil-company and other credit cards and had always paid his bills on time. "At first I was furious," Arywitz recalls. "I am in a sensitive job, the question of my reliability and integrity is important. I *knew* I had good credit. But after a while I relaxed. I figured that if the department stores didn't want my account, the hell with them. My wife wouldn't spend as much."

But the puzzle—and the cloud—persisted. An agent at a second car-leasing firm told him, "Well, with your job and salary, we'll take a chance on you despite your bad credit rating." What bad credit rating? "You've sure got a lot of lawsuits on file against you," the agent explained. Given that clue, Arywitz used his influence to pry loose from the car-leasing company the source of the credit slur. And then it all came out. During his eight years in Sacramento as labor commissioner, Arywitz had been listed for the record as the plaintiff or defendant in hundreds of lawsuits filed by or against the state labor department. All this time, deep in the innards of a Los

Angeles credit bureau, some benighted sleuth was sloping daily through the law journals, noting that a surpassingly feisty citizen named Arywitz had got jammed up in yet another colossal legal action. The credit bureau sold its "information" to every local institution that asked for a credit check on Sigmund Arywitz—namely the five Los Angeles department stores and two car-leasing companies.

In the circumstances, and given the happy ending, the whole incident could be looked at—and laughed off—as a mostly comical contretemps between modern man and his complex society. But encounters of the sort have proliferated to a point where the elemental right to privacy stands in serious danger—where some concerned Americans are in fact asking whether it may not be dying. Over the past twenty years, the U.S. has become (partly of necessity and mostly for good reasons) one of the snoopest and most data-conscious nations in the history of the world. Big merchants, little merchants, tax bureaus, police organizations, census takers, sociologists, banks, schools, medical groups, employers, Federal agencies, newspapers, motor-vehicle bureaus, insurance companies, clubs, mail-order houses, credit bureaus, pollsters, advertisers, mortgage lenders, public utilities, the armed forces—every blessed one of them and scores of other organizations have been chasing down, storing and putting to use every scrap of information they can find about all 205 million Americans, singly and in groups.

The country could not function as it does without this activity. Poured into

huge computers, swapped with mountains of other data from other sources, tapped at the touch of an electronic code button, these vast reservoirs of personal information make it possible for government to collect taxes, for banks and schools and hospitals to serve millions of customers and students and patients, for restaurants and airlines and stores to extend immediate credit to people they've never seen before.

But somewhere in the roil of expanding population, vast economy, foliating technology and chronic world crisis, individual Americans have begun to surrender both the sense and the reality of their own right to privacy—and their reaction to their loss has been slow and piecemeal. "The individual is being informationally raped," says Dr. Arthur Miller, a University of Michigan law professor whose career has been given over to the defense of privacy. "The government, credit bureaus, the police and others have their fangs in this guy. They each have their piece of information about this guy, and he doesn't have access to the information."

Rape, of course, is a scare word, and designedly so. But the case file is thick with data supporting Miller's view: Stephen Blumenthal, a clerk at the Chesapeake & Potomac Telephone Co. of Richmond, Va., told the Senate judicial proceedings subcommittee recently that he and his fellow employees enjoyed listening in on subscribers' phone calls. "Some of the deskmen would cut in on the local chapter of SDS to see what was happening," Blumenthal



said. "I liked to monitor warehouses."

■ Leon Sanders, a 40-year-old radio newsmen, was stuck with a bad-risk reputation in 1964, when the credit bureau of Greater Shreveport erroneously reported that his car had been repossessed—and kept on reporting it despite three letters to the contrary from the Ford Motor Co. Sanders left Louisiana and moved from Dallas to Waco to San Antonio, dogged at every step by the bum credit rap. In San Antonio, when a Ford dealer repossessed a car simply because he had heard about the earlier "repossession," Sanders sued him. But the dealer was a major advertiser on the San Antonio radio station where Sanders worked, and the station fired Sanders. Finally, Sanders gave up and moved back to Center, Texas, his boyhood hometown. "It's made it almost impossible to live in a contemporary society based on credit," he said last week. "We had to live on a pay-as-you-go basis. But I'm okay now in Center. People here have known me all my life and they take my word over that of some credit company."

Mrs. Tomlin Brown, head of the Avis G. Williams branch of the DeKalb County, Georgia, public library, was approached two weeks ago by a man with Internal Revenue Service credentials and asked to identify "users of certain militant and subversive material"—books on explosives, for example, or biographies of Che Guevara. Mrs. Brown replied that her records were kept on microfilm and that it would take hours to pull out a few names. Well, could she keep a record in the future by "flagging" certain dangerous books? "At that point I hit the roof," Mrs. Brown said. "People who come into my library are not going to have to worry about somebody telling Big Brother." IRS denied that its men had ever requested names of readers of "subversive" material, or that the agency was conducting some kind of national reading surveillance. But librarians in Milwaukee, San Francisco and Kansas City soon came forward to say that they had been asked for similar information either by IRS or their local police. "The library's records are public," an Atlanta IRS man argued, and T-men routinely consult public records. Had IRS stopped to consider whether it was invading

anybody's privacy? "It never even occurred to us," said the IRS man. "We've done so much of this in comparable situations, and there's never been this kind of furor."

The list of abuses swells. In recent months, whole new mountains of dossiers have piled up alongside the older, quasi-legitimate lodes of information. The U.S. Army was discovered to be keeping a file of ostensible potential disturbers of the peace (Joan Baez, Dr. Benjamin Spock, the NAACP) in addition to its 7 million routine files on the loyalty and criminal status of every present and former soldier, civilian employee or contractor. In California, Pacific Telephone and Telegraph Co. declined last week to say whether it was monitoring more or fewer calls than the 27 million private calls it monitored in 1965. The Retail Credit Co. of Atlanta, which is mostly in the business of supplying confidential reports to employers and insurance companies, fattened the total number of files in its inventory to 70 million; the Hooper-Holmes Bureau, Inc., which concentrates without exception on derogatory information, keeps 9 million dossiers.

Even these compendiums may prove to have been small, rather primitive beginnings. TRW Credit Data, a computerized subdivision of TRW Inc. based in Anaheim, Calif., is adding 50,000 new files a week to its present hoard of 40 million and expects within five years to have a dossier on every American who ever applied for credit anywhere. And in Washington, NASA has awarded Honeywell, Inc., a contract to develop a laser-storage technique that will allow one 4,500-foot magnetic tape to record and instantaneously feed back the equivalent of twelve pages of information apiece on every single person in the U.S. "In a very short time everyone's life and history will be available at the flick of a computer button," says Prof. Andre Moenssens of Chicago's Kent College of Law. "We may end up with 1984 long before we actually get there."

The traditional, largely unarticulated Anglo-American notion of privacy has been threatened repeatedly since the end of World War II, not because Big Brother has been getting surlier but be-

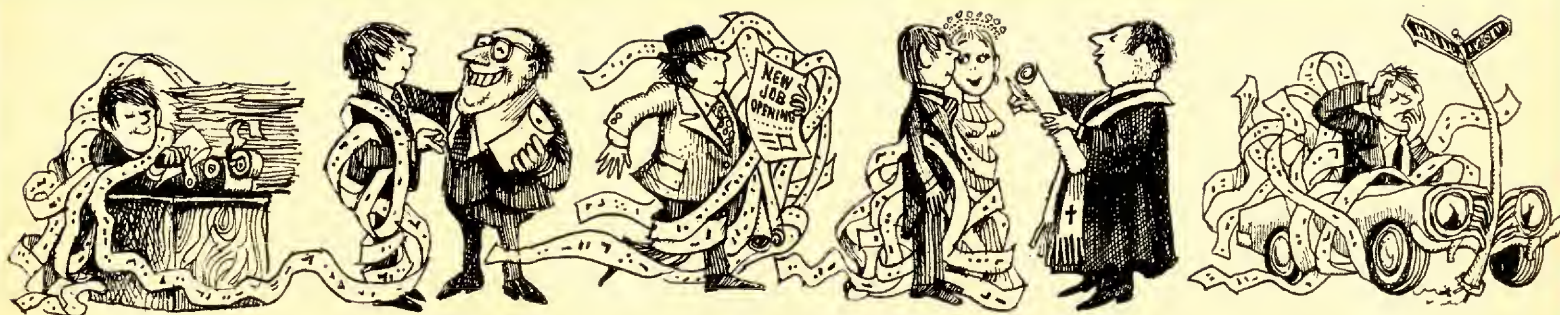
cause the technology has been getting more acrobatic. Three separate information-gathering tools—electronic-eavesdropping equipment, psychological testing and the electronic computer—have come to maturity in the past two decades, and each of them opens up a new box of heretofore unavailable data.

Or at least generally unavailable data. Repressive governments have been snooping on their citizens from the time of the Spartan secret police and the Roman Empire's *frumentarii* down through the Inquisition, Napoleonic France and on to today's totalitarian states. It has always been possible for a government (and more recently a corporation, or an angry wife's lawyer) to put together a remarkably complete dossier on an individual—by tailing him, searching all records, talking to his friends and enemies. But this process is enormously expensive and time-consuming, and one used to feel a bit flattered and *distingué* to rate a dossier.

In the past two decades, good old American ingenuity and know-how have democratized the process and brought the dossier within reach of the common man—and his wife. Along the way the U.S. has badly clouded its position as a nation whose citizens have always been automatically guaranteed certain large measures of privacy. The Constitution itself makes no mention of any right to privacy, but the highest courts in the land have always assumed it: the Supreme Court in 1880 forbade even Congress from looking into "the private affairs of the citizen," for example, and much more recently the Warren Court used the unwritten doctrine of privacy to void state laws prohibiting the dissemination of birth-control information.

There is no libertarian so staunch, however, that he does not recognize that the claims of privacy change with society. "The idea that privacy can't be invaded at all is utopian," says Charles Fried, a professor at Harvard Law School. "There are amounts and kinds of information which previously were not given out and suddenly they have to be given out. People adjust their behavior and conceptions accordingly."

The central question is whether Americans have been pushed and cajoled



into changing their behavior and conceptions too much too soon for their own good—whether they have succumbed too pliantly to the debatable charms of wiretaps, in-depth questionnaires and other up-to-date invaders of the body private. It is a subtle matter. “There is no great mastermind putting this together for some malevolent purpose,” says New Jersey Democratic Rep. Cornelius E. Gallagher, the House’s foremost defender of privacy, “but the tendency with rising technology is to use it.”

The government-approved telephone tap, cautiously employed during World War II to keep track of spies and saboteurs, is thought to have become so common a police and FBI practice by the late '50s that it was used against every corner bookmaker. Libertarians reacted with some indignation to these secret taps—especially after it got out that J. Edgar Hoover had kept a steady ear on the late Martin Luther King Jr.—and Congress specified in 1968 that the Justice Department, FBI and state and local police could use electronic surveillance only with a court order. Attorney General John Mitchell disclosed last week that his department has more than doubled the previous year’s total of 33 court-ordered taps, but this figure is next to meaningless. State and local police also run their own taps: New York authorities alone admit having had 191 of them last year. The Federal government, moreover, reserves the right to tap secretly in the interests of “national security,” and nobody (not even Hoover) has any idea how many phones are bugged in all in violation of the law. The only real protection for personal privacy is a spreading mistrust of telephones.

The advent of psychological testing was another large postwar dubiety. It certainly seemed a good idea for schools to screen the hordes of bright new faces for signs of emotional trouble—if only to get help for those who needed it. It also made apparent sense for employers to weed out the zanies before they got on the payroll, if possible, and for the Air Force to keep the Strangeloves out of SAC. All this the test-givers promised to be able to do, as well as predicting which man could withstand stress, lead his troops through a coffee break and

stay out of trouble with his secretary.

For a while the psychological accountants seemed ubiquitous, extending their services beyond the schools and business into government—where they ran into trouble. Congressional bulldogs—notably Gallagher in the House and Sam Ervin of North Carolina in the Senate—began getting wind of tests in which NASA employees were asked how often they shined their shoes and job applicants at two other agencies were quizzed on whether they had ever had sexual relations with animals. Form 89, a standard application blank, asked about bed-wetting; a State Department secretary was called upon to discuss her own constipation, if any, and possession by evil spirits.

Partly as a result of this sort of exposure—and partly from the discovery that psychological testing doesn’t predict a man’s performance terribly well—there has been a sharp curtailment of testing by government. In addition, several state governments have surrendered some important jurisdictions they used to assume—legal controls over the sexual lives of adult homosexuals, for example, are gradually being loosened, and abortion is rapidly becoming a private practice, not a criminal one. Largely because of Sam Ervin’s wrath, the executive branch of the Federal government under Lyndon Johnson stopped twisting the arms of Federal employees to get them to buy savings bonds, and department heads stopped the practice of putting pressure on employees to give their free hours to designated worthy causes.

All of this represents a fairly enlightened decade’s work on the barricades of privacy—and it leaves most persons that much less prepared for the massive flanking attack by that much-paraphrased miracle worker and friend, the electronic computer. The computer itself is no enemy—merely an incredibly spacious, incredibly fast adding-machine-cum-filing-system (page 18). Without it, the whole nation would have choked on paper by now—or would have had to gear its prosperity back to the number of business transactions that could have been handled by nonelectronic means. Computers are superefficient, in their way. Santa Clara County, Calif., installed a central computerized system for county

records, and found that certain property records were duplicated in no fewer than thirteen different county departments—at who knows what cost.

Unhappily, it is the very speed and range of the computer that has made it such a menace. A computer can store—and call up at an instant’s notice—billions of items of information, and this is equally true whether it is doing high-speed calculations for astronomers or (through recently developed computer “languages”) keeping files on the personal idiosyncracies of thousands of business employees. And it is the nature of an institution, government or private, to use this kind of capacity just because it’s there, in a kind of spiral of self-justification. “As information accumulates, the contents of an individual’s computerized dossier will appear more and more impressive and will impart a heightened sense of reliability to the user,” Professor Miller has written. “A computerized file has a certain indelible quality.”

Just how indelible is the stuff of hundreds of contemporary horror stories. An agent for Atlanta’s Retail Credit Co., the largest of the rent-a-dossier companies, testified to a Senate subcommittee in 1969 that he was expected to complete sixteen investigations a day, allowing 10 to 15 minutes per file on such questions as whether the subject is a heavy drinker, whether he takes part in “radical movements and demonstrations” and other information of a highly subjective nature. Despite the likelihood of errors, Retail Credit has always done its best to prevent subjects from correcting (or even seeing) their own dossiers. Until 1968, businesses or insurance companies had to promise not to reveal where they got their information. After some embarrassing hearings before Gallagher, Retail Credit deleted that clause from its contracts but wrote a letter with its new contracts saying blandly: “We, of course, are not suggesting any substantial departure from established business practices. If people were sent to us indiscriminately, this would impose a considerable problem and need of additional time.”

Some victims of these self-assured dossier companies have been scarred for life. Mike Goldgar, now 51, was chairman of two companies, including a string

HOW TO STOP WORRYING AND LOVE THE COMPUTER

In an endearing little book called "The Analytical Engine," published six years ago, the physicist and science writer Jeremy Bernstein recalled the career of Charles Babbage, a wondrous nineteenth-century English mathematician, engineer and genius of sorts who devised the cowcatcher and the speedometer and who once wrote to Lord Tennyson: "Sir, In your otherwise beautiful poem [The Vision of Sin] there is a verse which reads

*Every moment dies a man,
Every moment one is born.*

It must be manifest that if this were true, the population of the world would be at a standstill. In truth the rate of birth is slightly in excess of that of death. I would suggest that in the next edition of your poem you have it read—

*Every moment dies a man,
Every moment 1 1/16 is born . . .
I am, Sir, yours, etc."*

Such a man was heaven-sent to invent the high-speed digital computer, and in fact Babbage did his best. He spent the last four decades of his life in a monomaniacal attempt to build an Analytical Engine that could perform every single arithmetical function without any human guidance except the feeding of instructions and the throwing of the switch. For all the ungainliness of its gears, levers and cranks, Babbage's machine was almost unbelievably sophisticated. Like most modern computers, it was designed to have four interconnected parts—a memory bank, a computation section, a control center and what we would call an input-output system. And the whole thing was to be programmed with punch cards, a method that a Frenchman had devised to control the machine-weaving of rugs.

Babbage's thinking had outraced the world's technology; what he re-

ally needed to make his engine go was the vacuum tube—which wasn't invented until 1906. Even then, the tube sat around unheeded by mathematicians until the urgency of complex war projects led them to try to put together a machine that would do huge computational jobs at unprecedented speeds. The vacuum tube was ideal because its circuitry is changed from charged to uncharged, from "one" to "zero," in a millionth of a second—and a large enough number of these changes, in controlled sequence, could manage any computation. ENIAC I appeared in 1946, and Sperry Rand's UNIVAC I made the computer famous when NBC used it on election night in 1952 (and called the result on the button).

Bits: In 1954, the world's first business computer (a UNIVAC) was delivered; today the worldwide total is probably more than 100,000 (two-thirds of them in the U.S.). Computers still deal only in two numbers—one or zero—but the giant new machines approach speeds of 1 billion "bits" per second, a hundred thousand times faster than UNIVAC. Miniaturization has enabled the machines to store incredible amounts of information on small magnetic disks or tape, and computer "languages" permit them to "talk" to human programmers on punch cards and to handle complex sequences of instructions.

Computers almost never make mistakes on their own, but they are helplessly dependent on the reliability of the information and instructions fed into them. When the Beachslick Oil Co. sends you a wrong bill, the reason is that the computer got fed a punch card carrying wrong information—either because the key-punch operator made a mistake or because he was misinformed. When you then write back to protest, Beachslick's key-

punch operators can only search your envelope for your check—if any—and punch the amount you've sent into the machine. The machine matches your payment against what it had been told earlier you owed; if you haven't paid up, the machine spews out another bill the next month. All your arguments fall on deaf ears, because neither the computers nor the key-punch operators have been programmed to deal with them.

Ploys: Still, you are not quite helpless. A cabal of computer mathematicians at Harvard has worked out several ways of wiping out the machines entirely, plus a couple of gentler ploys adaptable to general use. It does no good to jump up and down on the punch card in your golf shoes before you send it in, because the operators will just punch another card. But, some dataphobes suggest tearing the card in four pieces and stapling it to the corner of a letter sent by registered mail to Beachslick's president. More subtly, say the Harvardmen, you can simply make a couple of random holes in the punch card, exactly the same size and shape as the other holes, and send it back as usual. The computer, they say, will check your altered card with its own memory tape, will notice the discrepancy and will get very nervous. If your friends are all doing the same thing to their Beachslick punch card, so much the better. Move the extra holes around from month to month, say the thinkers; the idea is to create an impression of many random, nonpersistent errors in the computer. Says one of the Harvards: "They'll get paranoid. Many random mistakes are the industry's Achilles' heel. This system will work to destroy them."

It may even work so well that Beachslick Oil will hire some real humanoids to answer your letters.



of Southern retail stores called Dejay Stores Inc., nine years ago, when Dun and Bradstreet put out a misleading credit report on him. When D&B continued to circulate the reports, Goldgar phoned the company president in New York—thereby calling down a vendetta on himself by infuriated D&B agents in Atlanta. A memo saying, "He really started something by calling Brackett" (D&B's president), went into D&B files in Atlanta, and by the end of 1962 D&B had finished Goldgar.

When Goldgar took a Caribbean vacation, Dun and Bradstreet hinted that he would not return. They wrote a false letter to New York University requesting information under the guise of a "national security" check. Finally they engineered a phony bankruptcy petition against Dejay, in effect ruining the company's reputation so thoroughly that it really did go bankrupt in late 1962. Goldgar and his companies sued and finally won \$6,610,000 when the case came to trial last year, but Goldgar's health is bad, his savings are badly depleted, and Dun and Bradstreet is still fighting the verdict in court.

Even without the sort of malice that came down on Goldgar, thousands of citizens are harassed, humiliated and victimized by the failure of computerized companies to keep up the human side of their rapidly expanding operations. An electronic billing error by a credit-card company or an oil company inevitably draws a protesting letter from the customer, but these firms have clerical resources for dealing with only a fraction of the complaints. So the questions go unanswered, the computers keep spinning out the same unjust bills (automatically enclosing ever rougher threats as time goes by) and finally the whole thing gets turned over to collection agencies whose only function is to get the money. One credit-card holder, a 38-year-old Boston psychiatrist, just concluded a three-year battle with a major credit-card company over an entirely ectoplasmic \$3,000 charge. The company's agents telephoned the doctor scores of

times while he was seeing patients, they sent a threatening telegram and numerous dunning letters. Even after he hired a high-priced lawyer, it took the lawyer eight months to get a straight reply from the company's lawyer—and even after the company acknowledged that the whole three-year nightmare had been its fault, it weasled (until after a reporter made inquiries) on paying the doctor's legal fees or promising him a written acknowledgement of its error.

Although computer foul-ups at the credit-card companies are common knowledge and large in number (NEWSWEEK Sept. 15, 1969), local and regional credit bureaus routinely accept whatever information the credit-card companies give them—and the companies never seem to acknowledge error. Once the deadbeat mark goes down against a citizen's name, it stays there, following him from state to state, summonable in as little time as fifteen seconds from the memory banks of the computers. What isn't summoned is the all-too-frequent explanation—that somebody mixed up two names or forgot to record a payment, or that the computers went bonkers.

With a few exceptions, the major credit bureaus have resisted attempts at regulation, have decried the proposal that they send out copies of credit reports to those affected (as British companies are routinely required to do by law), and have discouraged anything that would allow victims to come in and correct their own files. While residents of Illinois can delete wrong information if they happen to hear about it—and the New York and California legislatures are considering similar "fair credit" bills—in most states the bureaus still go unregulated and unchallengeable.

The miraculous speed and capacity of the computer are good for recording a great deal of information other than a man's credit-card bill. The average American trails data behind him like spoor through the length of his life—school records, health, tax and Army records, employment records, mortgage and business records, marriage and di-

voice records, legal records, sometimes even a few newspaper clippings. In earlier, less cluttered days, all these measurements of a man's performance were compartmentalized, scattered and most likely incomplete, and he could leave a bankruptcy or a nervous breakdown well behind him if he chose. The computer complicates that. To demographers, sociologists, cops, statisticians and government planners of all kinds, the computer seemed to radiate a data-filled dream, an informational Valhalla in which everything that was known about everybody would be consigned to one purring bank of magnetic tapes, tended by the priests of computer systems analysis. This also happened to be a dream that gave most libertarians and members of Congress the runaway trembles, however, and the proposal for a National Data Center was fairly forcibly laid to rest in 1967.

The matter is trickier than that. Even Ralph Nader, who pays for his hotel rooms by cash when he checks in rather than own a credit card, speaks up for the government's right to collect data. "With a complex society we can't make intelligent policy decisions without information," he says. "We've got to have data. The issue is to separate individual names from simple data." With and without separating the names, government on all levels has in fact been linking up computers in many different departments and agencies. Twenty-five states exchange computerized tax data with IRS; the National Crime Information Center runs a two-way information flow with state police in 48 states and with most large cities. The FBI also takes 25,000 reports a year from private credit bureaus, and IRS the same number. "Government has greatly increased its use of computers," says Professor Miller, "and they have pushed toward compatibility. In point of fact, we do now have a National Data Center."

As critics feared, government everywhere has been less than tender with the rights of citizens in its files, especially in the essential matter of removing names from data. The FBI transmits "rap sheets"



—criminal bookings—between local and regional law-enforcement centers and FBI headquarters. “Some 30 to 40 per cent of the FBI’s rap sheets show arrest records, but not reversals or court acquittals,” says Arthur Miller. “As far as the rap sheet is concerned, the man has a record. And the way things work even now, credit bureaus can get their hands on those rap sheets.” Ironically enough, the one government agency that has always been scrupulous in regard to privacy is the Census Bureau, but even Census ran into heavy criticism for its long list of questions this year, notably the one about bathroom facilities. The criticism is perhaps a mark of the times; the question on plumbing is not only a valid one (it gives the best measure of the nation’s standard of housing) but also appeared on the 1960 census without disturbing anyone at all.

State governments seem to be even less fastidious than Washington. The California Department of Motor Vehicles sells for 40 cents an item to all comers most everything it knows about California autos and the people who own them—name, address, age, sex, physical description, marital status, driving record, make and license of car, even whether the driver needs glasses. Eleven private California firms take space in the DMV building (three of them, including Bank of America, rent-free), and some of them are in the business of sort of pretending to be state agencies—reselling 40 cents information for \$2 an item. Auto-insurance companies also make enthusiastic use of these records.

Many private information-gathering agencies are as slipshod as the worst government bureaus, of course, and some are a good bit more venal. One Chicago outfit, called the American Security Council, keeps a card file of 6 million names, including “peaceniks, draft-card burners, pseudo-intellectuals”—all in all, according to its brochure, the “largest private collection on revolutionary activities in America.” (Maybe so, maybe not: the Church League of America, based in Wheaton, Ill., says it has a million more names on file than ASC—a treasure trove including anyone who ever “wrote an article attacking and ridiculing a major doctrine of the Christian faith or the American way of life.”) ASC is tax-exempt and abnormally respectable—its members include National Airlines, Inc., Sears, Roebuck and Co., Quaker Oats Co., at dues up to \$1,500 a year—but its real business is blacklisting. “Some of our members have contracts to the Department of Defense, and they have to be able to show that they have done the proper checking on their employees before they are hired,” says ASC administrative director William Lambie. Despite the damage it can do to purse and reputation, ASC refuses to let subjects see their files or correct mistakes. Says Lambie: “It would drive us absolutely

nuts if we had people coming in all the time to check their files.”

All these public and private Everests of unchecked, unchallenged and mostly unregulated personal records call out clearly enough for some sort of cogent set of standards and guidelines to operate by. “Eventually we have to set up an agency,” says Sam Ervin, “to regulate the computers like the ICC regulates transportation—an agency that can regulate what goes in, who has access, standards for removing derogatory information.” A tough new bill in the House, sponsored by Missouri Rep. Leonor Sullivan, would correct many credit-bureau abuses, but it may be too tough to get out of committee. Gallagher himself has two vigorous bills before the House, but it would be a help in the meantime if his colleagues would just vote him some money. He has fought the lone fight for privacy for five years on a single Congressional appropriation of \$65,000, the most economical

BLACK PANTHERS:

Trial in New Haven

As the city of New Haven commemorated the French Revolution last week (by flying the French tricolor from City Hall on Bastille Day), a train of witnesses in Superior Court there began painting a grisly picture of American revolution as practiced, so they said, by members of the militant Black Panther Party. The occasion was the first in a series of trials for the kidnapping and murder of a luckless, half-literate New York Panther named Alex Rackley, 24, and the state quickly began filling the record with testimony that he had been beaten, tortured and finally executed by party comrades who suspected him of being a police informer.

The defendant, a 24-year-old New Haven party leader named Lonnie McLucas, faced charges that included conspiracy to commit murder and kidnapping



Associated Press

Defendant McLucas heading for court: A grisly picture

campaign since Joshua’s at Jericho. Several private institutions have study projects going on the subject—notably one headed by Columbia University Prof. Alan Westin for the National Academy of Sciences.

It may be that privacy will turn out to be an irresistibly clean political issue, like environment. “A civil libertarian is just as interested as a states’-rights man like Strom Thurmond,” says Arthur Miller hopefully. Whatever the politics, the essential nobility of the cause shines clearly enough. A man needs to know, as the late legal philosopher Edmond Cahn wrote, that there is a private place where he “can resume his native stature . . . away from the haughty state, the frown, the putting forth of the finger, and the oppressive policings of social order. He can open his collar there and can give vent to his own particular daydreams, his mutterings and snatches of crazy song, his bursts of obscenity and afflatus of glory.”

—RICHARD BOETH

resulting in death. But the trial attracted even more attention as a dress rehearsal for subsequent proceedings against Bobby Seale, who is charged with having ordered Rackley’s death while in town for a speaking date at Yale University. And the Seale prosecution in turn has become a major cause célèbre of the left: it brought Yale to the point of rebellion last spring and moved university president Kingman Brewster to wonder aloud whether any black revolutionary could have a fair trial anywhere in the U.S.

Inside the cramped, bulletproof courtroom last week, a laboriously selected jury of six men and six women (including three Negroes) was first shown a chilling series of color slides of Rackley’s brutalized body. A physician detailed the damage: second-degree burns at the waist, mid-thigh and chest, bullet holes through the head and chest. Next came Miss Loretta Luckes, who testified that she was around Panther headquarters trying to catch on as a member about the time Rackley is alleged to have been